

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 1:22-cv-24023-SCOLA/GOODMAN**

KENNETH C. GRIFFIN,

Plaintiff,

v.

INTERNAL REVENUE SERVICE and U.S.
DEPARTMENT OF THE TREASURY,

Defendants.

NOTICE OF SUPPLEMENTAL AUTHORITY / POTENTIAL MOOTNESS

Plaintiff respectfully submits this notice of supplemental authority regarding Defendants' pending motion to dismiss.

Plaintiff alleges that IRS personnel exploited Defendants' willful failures to safeguard Plaintiff's confidential tax return information, leading to the unlawful disclosure of those materials to ProPublica for publication. ECF 1 ¶ 3. Defendants moved to dismiss asserting, among other things, that Plaintiff's allegations are implausible and that it may have been a "foreign state actor" that disclosed Plaintiff's information to ProPublica. ECF 23 4-5, 10, 13-14.

On September 29, 2023, the U.S. filed a criminal information against Charles Littlejohn, an IRS contractor, charging him with stealing and unlawfully disclosing confidential return information of "thousands of the nation's wealthiest people" to a news organization for publication, in violation of 26 U.S.C. § 6103, as Plaintiff alleged in his complaint. *United States v. Charles Edward Littlejohn*, 1:23-cr-00343-ACR ECF 1 (D.D.C.). The criminal information signals that the charged defendant informed the U.S. that a guilty plea is forthcoming. Likewise,

the charge indicates that the Complaint's allegations are not just plausible—they are true. Given this development, we anticipate that Defendants will withdraw their motion to dismiss (in relevant part), and Plaintiff may likewise seek leave to amend his complaint.

Dated: October 1, 2023

Respectfully submitted,

By: /s/ Alexander J. Merton

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Counsel to Plaintiff Kenneth C. Griffin

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 1st day of October, 2023, I caused a copy of the foregoing document to be filed with the Clerk of Court using the CM/ECF electronic filing system, which will send notification to all counsel of record.

By: /s/ Jason D. Sternberg
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